

OFFICE OF PLANNING

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LAND USE COMMISSION
STATE OF HAWAII
2019 JAN 10 A 9:22

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A94-706
)	
KAONOULU RANCH)	OFFICE OF PLANNING’S RESPONSE TO
)	INTERVENORS’ MOTION TO CONDUCT
To Amend the Agricultural Land Use District)	PHASE II OF CONTESTED CASE
Boundary into the Urban Land Use District for)	PENDING SINCE 2012, AND FOR FINAL
approximately 88 acres at Kaonoulu,)	DECISION; CERTIFICATE OF SERVICE
Makawao-Wailuku, Maui, Hawaii, TMKs: 2-)	
2-02: por. Of 15 and 3-9-01: 16)	
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OFFICE OF PLANNING’S RESPONSE
TO INTERVENORS’ MOTION TO CONDUCT PHASE II OF
CONTESTED CASE PENDING SINCE 2012, AND FOR FINAL DECISION

THE OFFICE OF PLANNING, STATE OF HAWAII (“OP”), believes that the Motion filed by MAUI TOMORROW FOUNDATION, INC., SOUTH MAUI CITIZENS FOR RESPONSIBLE GROWTH AND DANIEL KANAHELE (“Intervenors”) is premature and recommends that the Land Use Commission (“LUC”) defer Intervenors’ Motion at this time.

Intervenors' Motion requests the following of the LUC:

1. Lift the 2013 Stay.
2. After a non-evidentiary hearing as deemed necessary by the LUC, and after full review of the record by the Commissioners, adopt findings of fact and conclusions of law with respect to Phase I of the contested case based on the previous submissions of the parties;
3. Hold a hearing on Phase II, which will determine whether or not the Petition Area should be reverted to its former classification as State Agricultural land; and
4. Issue a final decision and order.

I. Original Project:

Under the original Findings of Fact, Conclusions of Law and Decision and Order ("D&O") issued on February 10, 1995, the Petitioner proposed to develop a 123-lot commercial and light industrial subdivision, with lots ranging from 14,000 square feet to 54,000 square feet.

II. Order to Show Cause:

1. On May 23, 2012, the Intervenors' filed a Motion for a Hearing, Issuance of Order to Show Cause, and Other Relief.
2. In November 2012, the LUC conducted a hearing on Phase I of the Order to Show Cause proceeding. As a result of the hearing, the LUC orally passed a motion finding that Petitioners Piilani and Honuaula proposed uses of the Petition Area would violate Conditions 5 and 15 of the Findings of Fact, Conclusions of Law and Decision and Order ("D&O"), and that Condition 17 had been violated. However, the LUC did not issue a written decision.

3. On June 27, 2013, the LUC granted the Motion to Stay Phase II of the Order to Show Cause, and ordered that Phase II would be stayed on the condition that Piilani file its motion to Amend before December 31, 2013, and that no construction on the Property occur during the stay.
4. In connection with its Motion to Amend, Piilani prepared a draft Final Environmental Impact Statement (“DFEIS”) for a mixed use project incorporating light industrial, business/commercial, and multi-family uses. On July 20, 2017, the LUC denied the acceptance of the DFEIS after conducting a hearing on the matter.
5. July 2017 to January 2018. Petitioners’ have made a decision to forgo the retail and mixed use project and to develop the Petition Area in substantial compliance with the representations made to the LUC.
6. On July 11, 2018, the LUC held a hearing to obtain information on the status of the Petition Area and to take action if necessary. Petitioner indicated that they were working with a consultant, Koa Partners, to conduct outreach work within the Kihei Community in order to determine the development alternatives for the Petition Area from the community members. The consultants have been working with the Kihei Community since January 2018, and were still in the midst of the community outreach process. Notably, the Intervenors and other members of the public have expressed an interest in seeing other types of development than the original light industrial subdivision on the Petition Area.

III. Analysis:

Per Intervenors' Motion page 13, I. Intervenors' Meetings with Piilani and Evaluation of New Proposals, Intervenor has met with Piilani and participated in these community meetings. Further, Intervenors have concluded "that it is unlikely that an acceptable proposal could be TIMELY (emphasis added) offered by the Petitioners that would permit the Intervenors to stipulate to dismiss the pending contested case."

The LUC's status report hearing on July 11 concluded that the process and progress being made by the Petitioners were adequate. A follow-up status hearing was scheduled for December 12, 2018, but needed to be postponed for scheduling reasons. The Commission should first be allowed to hear from the Petitioner on the progress or results of the community consultation process as it affects Petitioner's plans for proceeding.

OP believes that the LUC can take appropriate action on Intervenors' Motion at a later date following the status hearing on the project.

Conclusion and Recommendations:

OP believes that Intervenors' Motion is premature and recommends that the LUC defer the Intervenors' Motion at this time. OP reserves the right to further comment on Intervenors' Motion should the LUC act to defer the Motion.

DATED: Honolulu, Hawaii, January 10, 2019

OFFICE OF PLANNING
STATE OF HAWAII



LEO R. ASUNCION
Planning Program Administrator II

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by regular mail.

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DATED: Honolulu, Hawaii, January 10, 2019.

OFFICE OF PLANNING
STATE OF HAWAII

A handwritten signature in black ink, appearing to read 'L. Asuncion', is written over a horizontal line.

LEO R. ASUNCION
Planning Program Administrator II